

ORDINANCE NO. 2014- 19

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 78 ENTITLED "SOLID WASTE" ARTICLE II. "NUISANCES" OF THE CODE OF ORDINANCES AND IN PARTICULAR AMENDING SECTION 78-35 ENTITLED "WORK PERFORMED BY THE CITY; SPECIAL ASSESSMENT OF COSTS AND EXPENSES; LOT CLEARING LIEN" ESTABLISHING PRIORITY OF LOT CLEARING LIENS TO BE EQUAL IN DIGNITY TO TAX LIENS AND SUPERIOR IN DIGNITY TO MORTGAGES, JUDGMENTS, AND OTHER LIENS AND ENCUMBRANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, through the adoption of Hialeah, Fla. Ordinance 2002-55, the City Council intended to establish the priority status of lot clearing liens as equal in dignity to tax liens and superior in dignity to all other mortgages, judgments, liens and encumbrances;

WHEREAS, the procedure set forth in Florida Statutes Chapter 170 for the levy and creation of special assessment liens is the exclusive means by which special assessments may be levied by the City and the City may enact an ordinance creating a special assessment lien where it expends public funds to enhance, improve or specifically benefit certain private property;

WHEREAS, the purpose of this ordinance is to expressly provide for the priority of lot clearing liens; and

WHEREAS, it is in the best interest of the health, safety and welfare of the residents of the City of Hialeah that the City have the ability to recover the cost of any expenditures made improving or enhancing private property as provided for in Section 78-35 of the Hialeah Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 78 entitled "Solid Waste", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 78

SOLID WASTE

* * *

ARTICLE II. NUISANCES

* * *

Sec. 78-35. Work performed by city; special assessment of costs and expense; lot clearing lien.

If the property owner, tenant or occupant fails to remove therefrom the waste, trash, garbage, debris, litter, shrubbery, grass, grass cuttings, vines, weeds or bushes that constitute a nuisance or overgrowth; fails to maintain the property according to the duties established in this article, or fails to fill in all excavations and depressions thereon, within the compliance date of the notice provided by the city, the city may elect to clean or clear such property and restore the property to a safe and sanitary condition, including, but not limited to, securing an unsafe, unoccupied or abandoned structure or building, in compliance with this article. The city ~~may also~~ shall assess demand the property owner, tenant or occupant pay for ~~its~~ all costs and expenses incurred in cleaning, clearing, correcting or abating the nuisance and restoring the property to a safe and sanitary condition, including costs for in labor and materials, against the property. Such assessment, If not paid within 30 days, the city shall levy a special assessment lien in the total amount of costs and expenses incurred shall become a lien against the property or as provided by this Code or state law. This lien shall be deemed a special assessment lien, since costs and expenses incurred by the city confer a specific benefit upon the property burdened by the assessment. The special assessment lien shall be a first lien equal in dignity to liens for nonpayment of taxes and be superior in dignity to and have priority over all other mortgages, judgments, liens and encumbrances on any property against which such special assessment lien has been filed. The lien amount shall bear interest at a rate of eight percent annually and shall continue in full force and effect until paid.

* * *

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of

violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.


Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

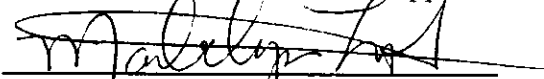
PASSED AND ADOPTED this 25 day of March, 2014.



Isis Garcia Martinez
Council President

Attest:

Approved on this 25 day of March, 2014.




Marbelys Fatjo, Acting City Clerk



Mayor Carlos Hernandez

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

SALEIR\LEGISLATION\2014-ORDINANCES\CODE AMENDMENTS\Lot-Clearing-Lien-Ch78.docx

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.

Ordinance was adopted by a 6-0-1 vote with Council Members,
Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez
and Lozano voting "Yes"& Council Vice President Gonzalez absent.

Name: Centergate at Gratigny LLC
Address: 745 Seventh Ave.
New York, New York 10022

This instrument prepared by: City of Hialeah
and return recorded instrument to the following

Address: City Attorney
501 Palm Avenue, 4th Floor
Hialeah, Florida 33010

Property Appraisers Parcel Identification (Folio)
Number(s): 04-2132-001-0040; 04-2132-001-0041

**RIGHT-OF-WAY DEED TO CITY OF HIALEAH, FLORIDA
FOR PUBLIC RIGHT-OF-WAY**

THIS INDENTURE, made this 10 day of March, 2014, by and between Centergate at Gratigny LLC, of the County of Miami-Dade, State of Florida, party of the first part, and the City of Hialeah, Florida, a municipal corporation organized and existing by virtue of and under the laws of the State of Florida, its successors in interest, party of the second part.



WITNESSETH, that the said parties of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) Dollars, to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, and for other good and valuable consideration, have granted, bargained, and sold to the party of the second part, their successors in interest, for the purpose of a public right-of-way and purposes incidental thereto, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to wit:

Attached as Exhibit "A"

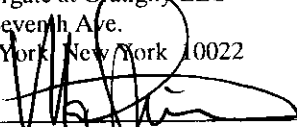
And the parties of the first part do hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set our hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of:


Witness
Printed name: Graham

Witness
Printed name: AMY McLEAN

Centergate at Gratigny LLC
745 Seventh Ave.
New York, New York 10022

By: 
Name: Mark Wuot
Manager
Vice President

(SEAL)

STATE OF FLORIDA ^{ny}
COUNTY OF MIAMI-DADE ^{ny}

I hereby certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Mark Wush as _____ of Centergate at Gratigny LLC, on behalf of the limited liability corporation, and he is known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that he executed the same, and I relied upon the following form of identification of the above-named person: _____ or are personally known to me and that an oath was taken.

NOTARY SEAL

Witness my hand and official seal in the County and State last aforesaid this 10 day of MARCH, 2014
2003.

Kristina Wall
Notary Signature
Kristina Wall
Typed/Printed Name

My Commission No.:

KRISTINA WALL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WA6258817
Qualified in New York County
My Commission Expires April 02, 2016

LEGAL AND SKETCH

SURVEYOR'S NOTES:

1. Bearings are based on an assumed value of S02°53'48"E along the West line of the SE¼ of Section 32-52-41, Miami-Dade County, Florida.
2. Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
3. This sketch does not represent a land survey.
4. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.

EXHIBIT
"A"

LEGEND:

POC	Point of Commencement	Δ	Central Angle Of Curve
POB	Point of Beginning	L	Length
POT	Point of Termination	SF	Square Feet
P.B.	Plat Book	R/W	Right of Way
PG.	Page	SEC.	Section
R	Radius	O.R.B.	Official Record Book

LEGAL DESCRIPTION:

A portion of Tract 1 of "MIAMI MUNICIPAL AIRPORT" according to the Plat thereof as recorded in Plat Book 40 Page 96 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the center of Section 32, Township 52 South, Range 41 East, Miami-Dade County, Florida; thence S02°53'48"E as a basis of bearing along the West line of the Southeast ¼ of said Section 32 for a distance of 305.00 feet; thence N87°06'12"E, at right angles to the last described course for a distance of 50.00 feet; thence N86°52'40"E for a distance of 1135.16 feet; thence S02°55'28"E for a distance of 1.85 feet to the POINT OF BEGINNING of the following described parcel of land; thence N86°52'40"E for a distance of 984.55 feet; thence S02°18'43"E for a distance of 103.01 feet; thence S86°52'40"W for a distance of 983.44 feet; thence N02°55'28"E for a distance of 103.00 feet to the POINT OF BEGINNING.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY: that the LEGAL AND SKETCH of the property described hereon was made under my supervision and that the LEGAL AND SKETCH meets the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors and Mappers in Chapter 5J-17.051, Florida Administrative Code pursuant to Section 472.027, Florida Statutes. And, that the sketch hereon is true and correct to the best of my knowledge and belief. Subject to notes and notations shown hereon. This sketch does not represent a land survey.

Ludovici and Orange Consulting Engineers Inc. L.B. #1012

By: 

Arturo A. Sosa
Surveyor and Mapper 2629
State of Florida

THIS DOCUMENT CONSISTS OF TWO (2) SHEETS AND EACH SHEET WILL NOT BE CONSIDERED FULL, VALID AND COMPLETE UNLESS ATTACHED TO THE OTHERS.

PROJ. NO: 2007 20

DATE: 02-26-2014

DRAWN:SS, BBL

CHECKED:AAS

SCALE:AS NOTED



LUDOVICI & ORANGE
CONSULTING ENGINEERS, INC.

329 PALERMO AVENUE, CORAL GABLES, FLORIDA 33134 • 305/448-1600 • LB 1012

TRACT "C"

SHEET 1 OF 2 SHEETS

